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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

Concluding observations on the seventh periodic report of Ecuador

Addendum

Information received from Ecuador on follow-up to the concluding observations*, **

[Date received: 5 January 2018]

* The present document is being issued without formal editing.

** The annex may be consulted in the files of the secretariat. It may also be accessed from the web page of the Committee against Torture.

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I. Introduction

1. On 11 January 2017, the Committee against Torture issued its concluding observations on the seventh periodic report of Ecuador (CAT/C/ECU/CO/7), in which it requested, in paragraph 57, that the State party provide information on the follow-up given to the recommendations contained in paragraphs 32 (allegations of torture and ill-treatment in prisons), 38 (victim and witness protection) and 48 (abuse and sexual violence against minors in schools). The Republic of Ecuador hereby submits the requested information to the Committee.

II. Information relating to the Committee's recommendations

ii.1 Recommendation contained in paragraph 32: The Committee requests the State party to provide full information on the results of the investigation into allegations of abuse committed in the Sierra Sur Turi regional prison. It should also investigate and report to the Committee on allegations of ill-treatment of minors held in centres for adolescent offenders.

ii.1.a Information on the outcome of the investigation into allegations of abuse committed in the Sierra Sur Turi regional prison.

2. On 31 May 2016, the Office of the Special Prosecutor for Persons and Safeguards of the Azuay provincial prosecution service launched preliminary investigation No. 010101816060266 into the allegations of abuse committed at the Sierra Centro Sur Turi social rehabilitation centre. Those proceedings having concluded on 26 January 2017, an official criminal investigation into the alleged offence of torture, as defined and penalized under article 151 (2) of the Comprehensive Criminal Code, was initiated with a duration of 90 days.

3. On 3 May 2017, an additional three persons were implicated in the context of the criminal investigation, whose duration was therefore extended by 30 days in accordance with article 592, penultimate paragraph, of the Code. At a hearing held on 8 June 2017, the prosecution filed amended charges against 49 persons, who were accused of abuse of authority in the line of duty, as defined and penalized under article 293 of the Code. On 17 July 2017, the criminal investigation was declared closed at the request of the prosecution, and the investigating prosecutor filed charges against 15 persons and dropped the charges against 34.

4. At the pretrial hearing, held on 10 August 2017, the trial judge decided to dismiss the proceedings against the defendants accused by the prosecution. The Attorney General's Office and the Public Defender Service subsequently challenged the dismissal order through an appeal. The Criminal Division of the Provincial Court of Justice of Azuay partially accepted that appeal and ruled that the proceedings following the amendment of charges hearing of 8 June 2017 were null and void; however, the summons to appear on those charges was invalidated by a procedural violation, namely that the criminal investigation had exceeded the maximum duration set forth under article 592 of the Comprehensive Criminal Code.

5. Ms. Carolina Ruiz Abad, a prosecutor with the Truth Commission, is currently in charge of the criminal investigation into the alleged offence of torture. Having concluded that investigation, she brought charges against 42 of the accused and refrained from charging 7. A pretrial hearing was convened for 9 a.m. on 15 December 2017.

ii.1.b Information regarding the allegations of ill-treatment of minors held in centres for adolescent offenders.

6. The Ministry of Justice, Human Rights and Religious Affairs ensures the comprehensive development of juvenile offenders on the basis of relevant national and international standards and public policies. To that end, through the Office of the Under-Secretary for the Comprehensive Development of Juvenile Offenders, it oversees the

management of 11 centres for adolescent offenders, 4 of which are located in the cities of Quito, Machala and Ambato and were the subject of a request for information in paragraphs 31 and 32 of the Committee's concluding observations.

7. There have been no reported cases of ill-treatment in the centres for adolescent offenders of Machala or Ambato, nor have any complaints been received from relatives of juvenile offenders. However, on 27 November 2017, the Public Defender Service issued a warning about the conduct of the coordinator of the Virgilio Guerrero centre in Quito. In response, the Ministry of Justice, Human Rights and Religious Affairs launched an immediate investigation and on 11 December 2017 the Minister for Justice, Human Rights and Religious Affairs, Rosana Alvarado Carrión, filed a complaint with the Pichincha prosecutor (see annex I).

8. The 11 centres for adolescent offenders in Ecuador meet international standards on the prevention of abuse, assault and sexual violence, and the Government has implemented an education, training and therapy pathway and structure that includes information and awareness campaigns, workshops and talks for the adolescents and their families and other persons with close emotional ties. The centres have thus become education centres where the rights to education, health, contact with family and autonomy are guaranteed.

9. The Office of the Under-Secretary for the Comprehensive Development of Juvenile Offenders is drafting two documents to address violence-related issues in centres for adolescent offenders. The first is a care and intervention protocol for adolescents who are sent to a detention centre after committing sex offences and is intended to prevent sexual assaults within such centres, whether among peers or perpetrated by adults against adolescents. No complaints of offences of this nature have been recorded to date. The second document contains guidelines for the design and drafting of a "behaviour agreement", which will be a set of rules that will apply to all centres for adolescent offenders and will involve both the juveniles and their families. This agreement will set out the procedure for the provision of educational and therapeutic assistance and support for adolescents who disrupt the harmony in the institutional environment.

ii.2 Recommendation contained in paragraph 38: The State party should continue to strengthen the capacity of the National Victim and Witness Protection Programme in order to ensure that victims and witnesses of acts of torture, including forensic experts, are effectively protected and supported. The Committee urges the State party to report on the outcome of the investigation into the murder of the forensic doctor Germán Antonio Ramírez Herrera and on the related criminal proceedings, if any.

ii.2.a The State party should continue to strengthen the capacity of the National Victim and Witness Protection Programme in order to ensure that victims and witnesses of acts of torture, including forensic experts, are effectively protected and supported.

10. The mission of the Programme of Protection and Assistance for Victims, Witnesses and Other Participants in Criminal Proceedings, overseen by the Attorney General's Office, is to safeguard the physical and psychological integrity of victims, witnesses and other participants in criminal proceedings who are in a situation of risk owing to their involvement in such a proceeding at any stage, including the pretrial phase. The process whereby such persons may be admitted to, remain in and be discharged from the Programme is as follows: (1) a complaint is made; (2) a judge or prosecutor files a request; (3) technical reports (psychological, legal, social work and risk analysis) are drawn up; (4) a decision to offer admission is taken; (5) a comprehensive intervention plan is implemented; (6) the plan and the criminal proceedings are monitored; and (7) a decision is taken to extend coverage or to implement a discharge plan (beneficiaries of protection remain in the Programme for a maximum of one year).

11. In order to carry out its institutional mission, the Programme operates through a decentralized structure of 24 provincial coordination offices and a national directorate responsible for strategic management. The Programme provides services to users in four areas, namely: protection, assistance, support for prosecutors and judicial measures. All of these services are designed to restore the violated rights of victims and witnesses, ensure

the timely and effective delivery of justice and enhance legal certainty and reduce impunity in the country.

12. The protection service includes immediate assistance, community police protection, permanent police protection, police escort operations, change of domicile, assistance in leaving the country and security measures at social rehabilitation centres (see annex II.A). The assistance provided may be medical, psychological or social, or may relate to finding work or continuing studies, depending on the beneficiary's requirements (see annex II.B).

ii.2.b *The Committee urges the State party to report on the outcome of the investigation into the murder of the forensic doctor Germán Antonio Ramírez Herrera and on the related criminal proceedings, if any.*

13. Following the alleged murder of the forensic doctor Germán Antonio Ramírez Herrera in the city of Quevedo on 6 July 2010, the Attorney General's Office opened a case and initiated the preliminary investigation on 8 July 2010. During this phase, the prosecutors in charge of the case carried out several activities, including: (1) taking the statements of police officers, prison guards, staff of the Quevedo social rehabilitation centre and persons deprived of their liberty; (2) requesting and receiving call records and general information from the telecommunications company Porta; (3) examining the crime scene and physical evidence; and (4) preparing the ballistics report.

14. Among the most recent actions taken, on 26 August 2015 the prosecutor in charge of the case arranged for two bullets retrieved from the victim's body to be sent to the Integrated Ballistic Identification System to determine whether they could be linked to any of the weapons registered in the system. Following a delay in the investigation of the case, appropriate measures have been taken and the Attorney General's Office has requested the Council of the Judiciary to conduct an inquiry into the conduct of the prosecutors responsible for the case.[1]

ii.3 **Recommendation contained in paragraph 48: The Committee reiterates its previous concluding observations (see CAT/C/ECU/CO/4-6, para. 18) and urges the State party to continue taking the necessary measures to prevent and eliminate abuse and sexual violence against minors in schools. The Committee also urges the State to ensure that all such acts are investigated promptly, effectively and impartially, that the perpetrators are brought to justice and that victims obtain redress. The State must also ensure that the victims are provided with the necessary protection and support. Finally, the State party should provide comprehensive statistical data on the number of complaints received and investigated, and on the number of prosecutions and convictions in such cases.**

ii.3.a *The Committee reiterates its previous concluding observations (see CAT/C/ECU/CO/4-6, para. 18) and urges the State party to continue taking the necessary measures to prevent and eliminate abuse and sexual violence against minors in schools.*

15. In accordance with the Constitution and the Organic Act on Intercultural Education, the Ministry of Education carries out initiatives in support of an educational model for children and adolescents that focuses on the promotion of basic principles and values for harmonious coexistence, thereby discharging its duty of ensuring the necessary conditions for their protection. Such initiatives have included the establishment of student counselling departments, the introduction of the "Education is a Family Matter" programme and various activities aimed at strengthening violence prevention measures.

16. Article 58 of the implementing regulations for the Organic Act on Intercultural Education stipulates that student counselling departments are responsible for organizing and delivering comprehensive services for students enrolled in educational institutions of all levels and categories.

[1] Under article 181 of the Constitution, the Council of the Judiciary has the power to direct processes for the evaluation, advancement and sanctioning of judges and other judicial officials, including prosecutors.

17. A comprehensive service model for student counselling departments introduced in 2014 defined the profiles, functions, duties and key activities of the professionals staffing the departments.[2] In 2016, the model was upgraded to an operating model for student counselling departments, which set out a number of theoretical and practical strategies for addressing various situations that may arise in the educational context, including abuse and sexual violence in schools.[3] Accordingly, student counselling departments engage in a variety of activities to address potential problems, including promotion, prevention, detection, intervention, referral and follow-up within a framework of inclusion. All actions are implemented under a holistic approach and are aimed at administrative staff, teaching staff, students and parents.

18. At present, 1,768 institutions — 1,669 State schools and 99 religious schools — have student counselling departments. A total of 4,110 psychologists, psychological and educational counsellors and social workers are employed in the departments.

19. In late 2015 and in 2016, an information management module was installed on the Educar Ecuador ("Educate Ecuador") portal for the specific use of professionals working in student counselling departments. The module is designed to record cases relating to situations of risk and/or difficulties faced by children and adolescents in the national education system, as well as the process of intervention, referral and follow-up undertaken by the student counselling department in such cases. The confidentiality of the information is ensured.

20. To tackle the problems described in the Committee's recommendation, student counselling departments rely on working documents such as the operating model and protocols for dealing with violence detected or committed in the education system. Moreover, guidelines are being drawn up for prevention, detection and intervention in cases of violence or discrimination related to sexual diversity or gender identity in the national education system.

21. Another initiative adopted by the Ministry of Education is the "Education is a Family Matter" programme, which aims to strengthen and enhance the relationship between families and educational institutions while improving education quality and preventing problems at school, in the family and in society. The programme is implemented through campaigns, workshops and community meetings centred on four thematic modules relating to prevention of drug use, bullying, education in values and sex education.

22. Activities have been carried out to strengthen the prevention of violence in the State education system. In 2012, the Ministry of Education, the Attorney General's Office and the Council of the Judiciary signed a tripartite agreement aimed at ensuring educational settings free from violence and reducing impunity through prompt and timely attention, protection and restitution of rights. This agreement remains in force and facilitates appropriate responses to any cases of abuse and sexual violence detected in the education system.

23. In 2014, through technical cooperation with the organization World Vision Ecuador, bullying prevention workshops were held that focused on implementing the "Practical guidelines for dealing with bullying at school"; 1,395 professionals from the student counselling departments of 799 State schools received this training, which was then replicated, thus sensitizing 563,789 students and 35,401 teachers to the problem.

24. Between 2014 and 2015, in a joint initiative with the United Nations Children's Fund (UNICEF) and World Vision, the Ministry of Education worked on a methodology for establishing a baseline on bullying at school, with the goal of discovering more about determinants, causes, types of violence, regional differences and other factors related to this specific type of violence.

25. In 2016, under a cooperation agreement between UNICEF and the Fundación para la Infancia y la Comunidad (Foundation for Children and the Community), the first edition of a course on strengthening human capacities and skills was developed and implemented with

[2] Ministry of Education, Ministerial Agreement No. 0069-14 of April 2014.
[3] Ministry of Education, Ministerial Agreement No. 00046-A of May 2016.

a view to increasing the capacity of the education system by ensuring respect for children's and adolescents' rights within educational communities. Through this initiative, training was provided to 3,097 staff of student counselling departments in topics such as inclusion and diversity, gender relations and sexuality, and violence prevention and a culture of peace. In addition, training of trainers was conducted with 186 student counselling professionals so that they could deliver replica courses to teachers.

26. Using the training-of-trainers methodology, student counselling professionals were able to deliver training to 11,480 State school teachers on protocols for dealing with violence committed or detected in the educational system and on promoting preventive strategies and skills in areas such as personal development, human rights, inclusion and diversity, a culture of peace, emotional well-being, gender relations and sexuality.

27. In March 2017, in coordination with the Council of the Judiciary and the Attorney General's Office, the Ministry of Education published an online version of a document entitled "Protocols for dealing with violence detected or committed in the national education system" as guidance for teachers, education authorities and student counselling departments on how to prevent, detect and deal with such situations. The document provides a theoretical perspective on violence and its various manifestations, with special emphasis on sexual violence, owing to its strong personal, social and cultural impacts and to the fact that it is a problem that often remains hidden in the contexts in which it occurs.

28. The document also sets out conflict resolution strategies, both preventive and reactive, that can be implemented in educational institutions and establishes protocols for students, families and teaching staff to deal with detected cases of violence within a framework of comprehensive protection, including protection of the victim against revictimization, and work with the aggressor.

29. In June 2017, policies were issued for the recruitment of managerial, teaching and administrative staff in religious and private schools in the national education system,[4] with the aim of ensuring that education services have suitable managerial, teaching and administrative staff who are appropriately qualified and selected in accordance with the principle of the best interests of children and adolescents and their right to be educated in a peaceful environment where their physical and psychological welfare is not threatened. The policies also include provisions aimed at enabling religious and private schools to put in place rigorous and transparent procedures for the recruitment, selection and evaluation of managerial, teaching and administrative staff.

ii.3.b *The Committee also urges the State to ensure that all such acts are investigated promptly, effectively and impartially, that the perpetrators are brought to justice and that victims obtain redress. The State must also ensure that the victims are provided with the necessary protection and support.*

30. In June 2017, a manual on the care of child and adolescent victims of sexual violence committed or detected in institutions of the national education system and on processes for investigation and punishment[5] was issued with the aim of regulating the procedures for prevention, care and support in cases of abuse and sexual violence. The manual offers guidance for the response to this type of offence by administrative and judicial officials and establishes that they are required to report and take action in response to offences of a sexual nature that are explicitly criminalized under articles 151 to 175 of the Comprehensive Criminal Code.

31. On 26 July 2017, in a plenary session, the National Assembly approved the establishment of a special ad hoc committee, known as the AAMPETRA Committee, composed of nine legislators responsible for investigating cases of sexual abuse of children and adolescents in the country's educational institutions.

32. On 17 August 2017, the Ministry of Education, the Ministry of Justice, Human Rights and Religious Affairs, the Council of the Judiciary and the Attorney General's

[4] Agreement No. MINEDUC-MINEDUC-2017-00055-A of 23 June 2017.
[5] Agreement No. MINEDUC-MINEDUC-2017-00052-A of 22 June 2017.

Office signed a new framework agreement on inter-institutional cooperation to ensure educational settings free from violence. The agreement covers a five-year period and is aimed at preventing, identifying and bringing to trial cases of physical, psychological and sexual violence in schools throughout the country.

33. The agreement establishes procedures designed to ensure the protection of children and adolescents whose physical or sexual integrity has been violated or threatened, prioritizing assistance for the victims of sex offences. The Attorney General's Office and the Council of the Judiciary will be required to prepare records of offences against the physical or sexual integrity of students, provide immediate assistance and support, and ensure the comprehensive restitution of rights and the provision of appropriate redress to victims.

34. In order to implement the new framework agreement, the following actions have been taken: (1) the creation of technical coordination bodies to ensure continuous monitoring of cases of violence identified in educational institutions; (2) the development and implementation of joint workplans and activities designed to prevent any form of physical, psychological or sexual violence that violates the rights of children and adolescents in educational institutions; (3) the development of appropriate investigation mechanisms so that such offences can be identified and legal and administrative actions can be taken against offenders; and (4) the implementation of public awareness-raising campaigns. The purpose of these actions is to encourage social mobilization around this issue and to develop awareness and capacity among the managerial, teaching and administrative staff of educational institutions with a view to preventing, identifying and combating all forms of violence, especially sexual violence originating within the educational community.

35. In the context of the above-mentioned agreement, on 13 December 2017 an inter-agency meeting was held in the framework of the "More United, Better Protected" campaign with the participation of the Attorney General's Office, the Council of the Judiciary, the Ministry of Education, the Ministry of the Interior and the National Statistics and Census Institute. This forum for inter-institutional coordination is organized into four working groups on information, punishment, comprehensive redress and prevention. At the meeting, each working group established an objective, a lead institution, an indicator, a target, milestones and an estimated time frame for achieving its objective.

36. Furthermore, the Ministry of Justice, Human Rights and Religious Affairs and the Ministry of Education are working towards the signing of a framework agreement on inter-institutional cooperation for the provision of redress and therapeutic care by the Special Protection Service to victims of sexual abuse in schools. The purpose of this agreement is to ensure timely care for victims of sexual violence in educational settings.

37. The agreement includes the following obligations: (1) establish a task force to draft a protocol for inter-institutional coordination for the referral of sexual abuse victims identified by the Ministry of Education to the Special Protection Service of the Ministry of Justice, Human Rights and Religious Affairs; this task force will be responsible for coordinating the implementation of the protocol across the country, supervising cases and ensuring that the services provided meet quality standards; (2) set up a shared database containing individual records on victims of sexual violence identified by the Ministry of Education; (3) train staff of the relevant administrative units (student counselling departments of the Ministry of Education and the Special Protection Service of the Ministry of Justice, Human Rights and Religious Affairs) in specialized care for victims of sexual violence; (4) increase the number of social workers and clinical psychologists within the Special Protection Service by at least 50 per cent (an additional 47 officials) to support the development of the inter-institutional protocol and to provide care for victims of sexual abuse in educational settings; (5) maintain a physical file for each case, documenting the specialized care procedures implemented for child and adolescent victims of sexual abuse; (6) develop and publish educational and informational materials aimed at preventing sexual violence, and any other technical instruments that may be required for the care process.

ii.3.c *Finally, the State party should provide comprehensive statistical data on the number of complaints received and investigated, and on the number of prosecutions and convictions in such cases.*

38. From 2015 until December 2017, the Attorney General's Office received 714 complaints of acts of sexual violence committed against children and adolescents in an educational setting.[6] These included offences perpetrated in an educational setting, offences detected in an educational setting but perpetrated in a domestic context, and peer-on-peer offences (i.e. among students) in an educational setting.

39. With regard to the victims identified in these complaints, 56 per cent were adolescents, while 37 per cent were children and 7 per cent adults; 90 per cent of the victims were female and 10 per cent were male.

40. At the "More United, Better Protected" inter-agency meeting of 14 November 2017, held pursuant to the framework agreement on inter-institutional cooperation to ensure educational settings free from violence (see paragraph 34), the Ministry of Justice, Human Rights and Religious Affairs committed to establishing a technical entity in order to validate information on violence in educational settings.

41. In fulfilment of that commitment, on 21 November 2017 the Office of the Deputy Minister for Justice, Human Rights and Religious Affairs requested the Executive Director of the National Statistics and Census Institute to authorize the creation of a specialized committee on statistics relating to violence against children and adolescents in educational settings.

42. Furthermore, it was agreed to hold weekly meetings with the aim of developing a standardized information system for the handling of cases, statistics and figures that can be used in the formulation of public policies on child and adolescent victims of violence.

43. The following commitments were agreed at inter-agency meetings held on 22 and 29 November and 5 December: (1) prepare a road map by December 2017; (2) produce a draft methodology sheet, a draft matrix (to be developed by the Attorney General's Office) and a final matrix; and (3) develop and review variables based on the information available to each institution. The goal was to build the indicator matrix by 21 December 2017 and to adopt a resolution establishing the specialized committee on statistics relating to violence against children and adolescents in educational settings.

44. As part of the process described in the preceding paragraph, at the inter-agency meeting of 13 December 2017 (see paragraph 35), the working group on information proposed the following milestones: (1) conceptualization and variables for data collection defined; (2) initial report with cross-checked source information analysed and validated; (3) preliminary results presented; (4) initial qualitative analysis report delivered; (4) weekly record reports delivered.

[6] Attorney General's Office, data as of 12 December 2017.